

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MYRA BREVARD,

Plaintiff,

-v-

WELLS FARGO CO.,

Defendant.

23 Civ. 7702 (PAE) (KHP)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

Before the Court is the March 15, 2024 Report and Recommendation of the Hon. Katharine H. Parker, United States Magistrate Judge, recommending that the Court remand this case *sua sponte* to the Civil Court of the City of New York, New York County, and deny defendant's motion to dismiss as moot. Dkt. 17 ("Report"). The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts this recommendation.

**DISCUSSION**


In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at \*2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at \*4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Parker's thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that "[f]ailure to file timely objections will result in a waiver of those objections for purposes of appeal," Report at 6, the parties' failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

### CONCLUSION

For the foregoing reasons, the Court remands this case to the Civil Court of the City of New York, New York County, and denies defendant's motion to dismiss as moot. The Court respectfully directs the Clerk to mail a copy of this decision to plaintiff at the address on file.

SO ORDERED.

  
Paul A. Engelmayer  
United States District Judge

Dated: April 3, 2024  
New York, New York